

IN THE DRAWINGS:

Applicant requests amendment of Figures 2, 3, 4, 5 and 7 as indicated in red on the enclosed amended sheets.

Please find enclosed replacement sheets for Figures 2, 3, 4, 5 and 7 with the requested changes incorporated.

Applicant respectfully requests the Examiner's approval for these changes.

REMARKS

Claims 1-8 remain in this application. Applicant respectfully requests re-examination.

The drawings were objected to because of inconsistent reference numerals and missing reference numerals, as well as other matters.

Reference numerals have been added to Figures 2, 3, 4, 5 and 7. In addition, the reference numeral 39 in Figures 3 and 4 has been changed to 40 to conform with the specification.

Figure 5 was objected to for improper material cross-hatching. Applicant respectfully traverses. The cross-hatching is not for the purpose of showing the material type, i.e. plastic.

Applicant respectfully requests that the revised drawings be accepted.

The Office Action objected to the disclosure on various grounds as noted in the Office Action.

The specification has been amended to provide proper antecedent basis for the claim language. Applicant respectfully submits that antecedent basis for "chamber" as set forth in claim 5 is found in the specification at page 4, paragraph [0016] lines 3 and 6.

Applicant respectfully requests that objection to the specification be withdrawn.

Claims 1 and 7 were rejected under 35 U.S.C. §112 as being indefinite. Applicant respectfully traverses.

Claim 1 recites, "In a portable spa with a circulating system and a top rim having an outside and an inside edge, a waterfall structure comprising:" This language clearly sets forth that the spa is part of the claimed combination. The claim clearly sets forth that the waterfall structure has "a channel having a channel floor and side walls, a first end that is closed and a second end that is open, the channel embedded in the top rim of the spa with the side walls

located between the outside and inside edges of the top rim with the second end located at the inside edge of the top rim.”

Claim 7 indirectly depends from claim 1 which refers back to the circulating system of claim 1.

Applicant respectfully requests that this rejection be withdrawn.

Claims 1, 2 and 5 were rejected under 35 U.S.C. §102(b) as anticipated by *Koren* (U.S. 6,484,952). Applicant respectfully traverses.

Koren is directed to a fiber optic illuminated waterfall which has a box construction that sits on top of a wall 24, spewing a stream of water 32 from its outlet 22.

Koren does not show, teach or contemplate a waterfall comprising “a channel having a channel floor and side walls, a first end that is closed and a second end that is open, the channel embedded in the top rim of the spa with the side walls located between the outside and inside edges of the top rim with the second end located at the inside edge of the top rim.”

With respect to claim 2, *Koren* does not show, teach, or contemplate “a light transmitting lens at the water access aperture located so that the water fed into the channel passes over the lens and picks up light energy passing through it.”

With respect to claim 5, *Koren* does not show, teach or contemplate “a chamber having an inlet and outlet located to receive water from the water apertures at the inlet and directed to flow over the lens at the outlet.”

Applicant respectfully requests that this rejection be withdrawn.

Claim 3 was rejected under 35 U.S.C. §103(a) as unpatentable over *Koren* and *Lowry et al.* (US 5,608,927). Applicant respectfully traverses.

Applicant resubmits here the arguments set forth above for the patentability of claims 1, 2 and 5. Claim 3 depends from claim 2, which depends from claim 1.

Lowry et al. is directed to a sophisticated shower head which utilizes an accumulator chamber 54 that receives water through an input line 49 and discharges the water through an outlet passage 67 to flow over a ledge 63 having an undulating surface 64 that provides sheet water flow. This flow if for functional reasons in a shower. The claimed invention is directed to provide a waterfall for a spa, for aesthetic reasons.

Applicant respectfully requests that this rejection be withdrawn.

Claims 4, 6 and 7 were rejected under 35 U.S.C. §103(a) as unpatentable over *Koren* and *Lowry et al.* and further in view of *Gaffney et al.* (US 4,823,409). Applicant respectfully traverses.

Gaffney et al. is directed to a sheet flow spout that has a narrow flow chamber 54 with a flow surface 47 that ends at a front edge 51. The flow surface 47 has a center section 59 that is raised relative to the side sections 57 which causes the flow chamber to be thinner near the center than at the sides, as shown in Figure 2. As described by *Gaffney et al.* this concave shape of the mouth produces a substantially laminar flow which maintains its sheet-like appearance relatively far from the spout.

This is hardly a “disruptor button having a height and circumference located at the second end of the channel to disturb the laminar flow as it exits the channel and falls into the spa” as claimed and described.

Applicant respectfully requests that this rejection be withdrawn.

Claim 8 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Koren, Lowry et al.* and *Gaffney et al.*, and further in view of *McDonald et al.* (US 2005/0155144). Applicant respectfully traverses.

McDonald et al. is directed to a laminar flow lighted waterfall apparatus for a spa which utilizes a lens 33 located in the plenum chamber 21 of the waterfall structure.

Applicant reasserts here the arguments for patentability set forth above. Claim 8 depends from claim 6, which depends from claim 4, which depends from claim 3, which depends from claim 2, which depends from claim 1. Furthermore, *McDonald et al.* can hardly be said to be showing a “lens [that] conforms to the channel floor at the outlet of the water receiving chamber.” The lens of the present invention is located in the channel floor so that water can flow over it and pick up light passing through the translucent surface of the lens. This light introduction mechanism is quite different from that shown in *McDonald et al.* or *Koren*, or any other art of record.

Applicant respectfully requests that this rejection be withdrawn.



Patent
42526-2800

In light of the above amendments and remarks, applicant respectfully submits that all the claims in this application are in condition for allowance, and respectfully requests that all objections and rejections be withdrawn, and this application passed to issue.

I hereby certify that this correspondence is being deposited with the United States Postal Service as "Express Mail Post Office to Addressee" service under 37 CFR 1.10 in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 8, 2006

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By: Marc Fregoso

Marc Fregoso

Signature

Dated: August 8, 2006

Very truly yours,

SNELL & WILMER L.L.P.

A handwritten signature in black ink, appearing to read "Albin H. Gess".

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ANNOTATED SHEET

U.S. Serial No. 10/828,905
Filing date: 4/21/2004; GAU: 3751
Docket No. 42526-2800

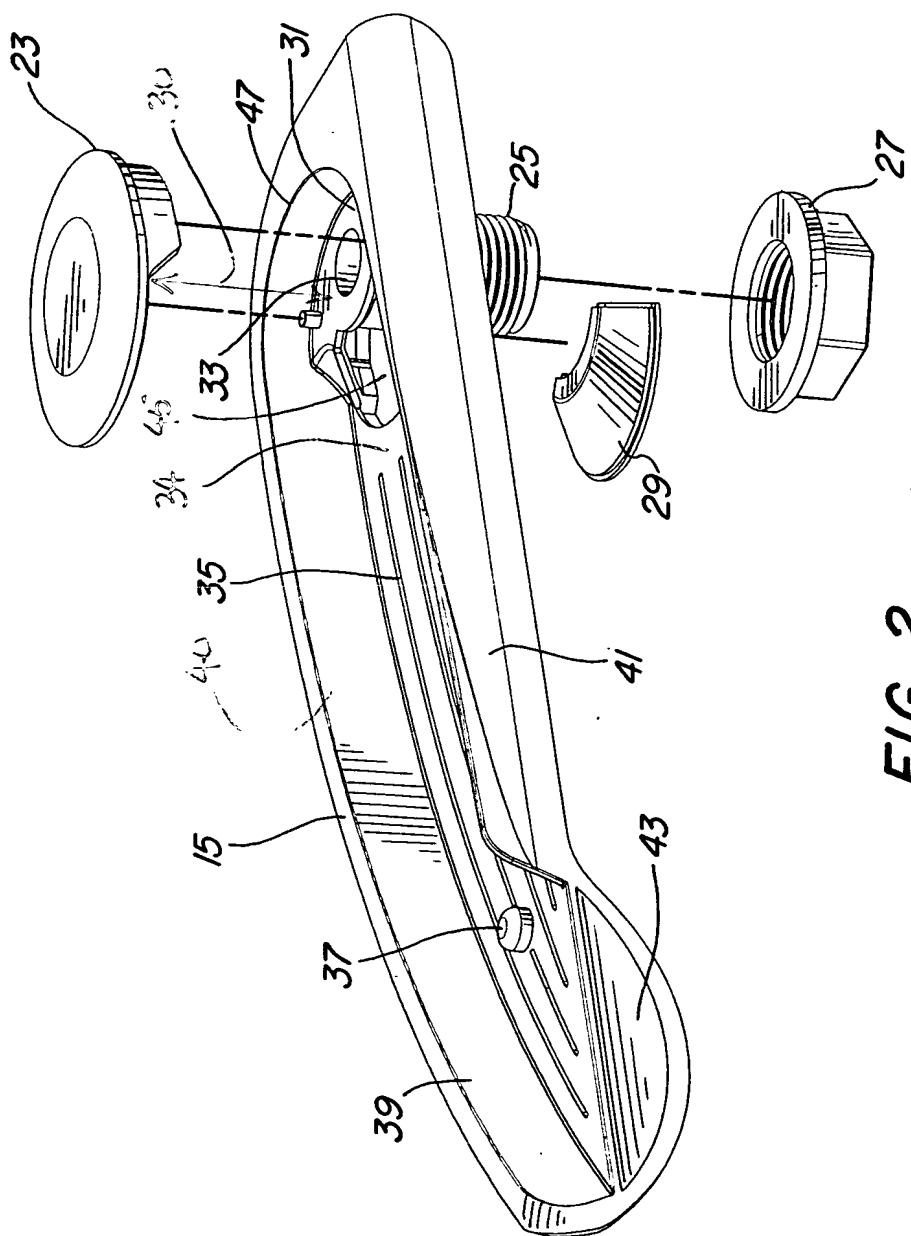
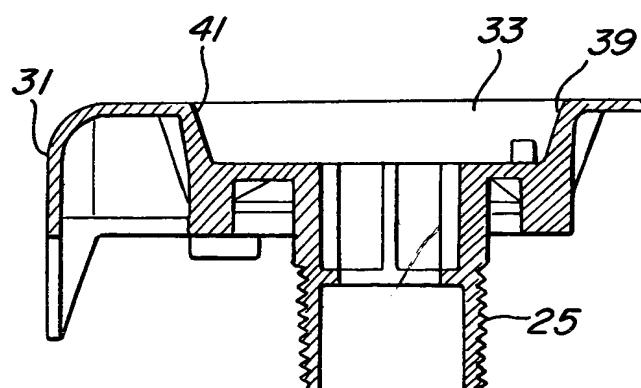
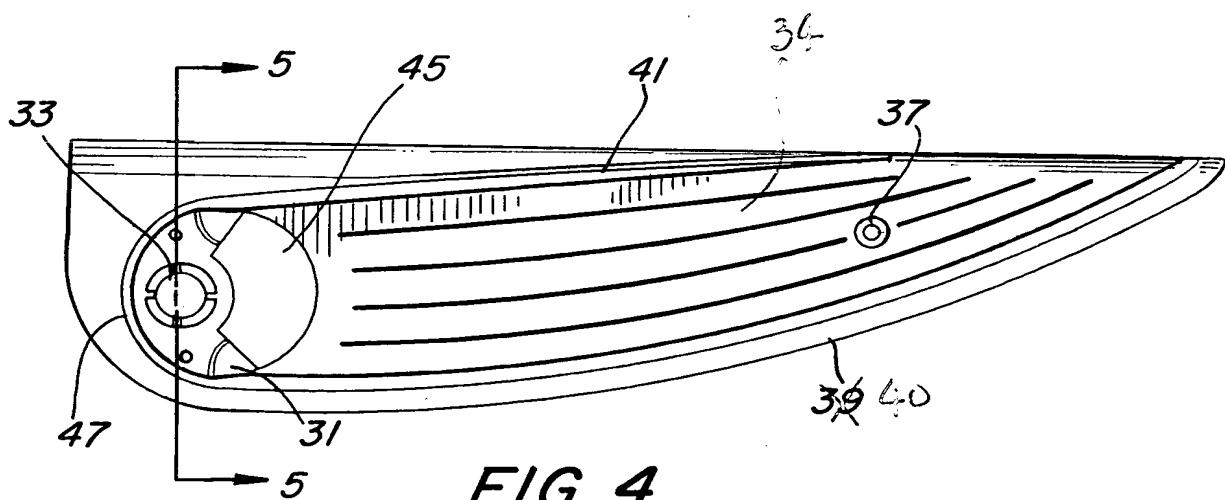
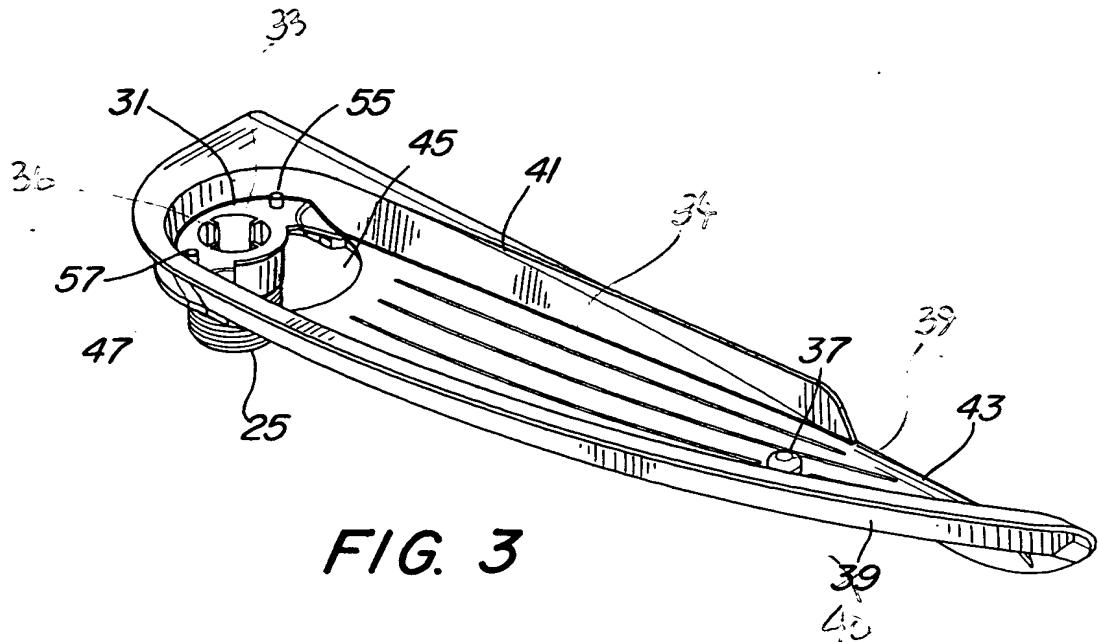


FIG. 2

ANNOTATED SHEET

U.S. Serial No. 10/828,905
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ANNOTATED SHEET

U.S. Serial No. 10/828,905
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